IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9469 OF 2004

Shri.Dnyandeo Ramchandra Patil
& Ors. ..Petitioners.

Vs.

Shri.Maruti Sopan Patil & Ors. ..Respondents.

....

Mr.Milind Deshmukh for the Petitioners.

Mr.K.B.Sonwalkar for Respondent Nos.1 and 2.

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CORAM : DR.D.Y.CHANDRACHUD, J.

8th April, 2005.

P.C. :

Against the order of rejection of an application for sending certain documents to a handwriting expert, this Court was moved in a Civil Revision Application. On 28th February, 2001 a Learned Single Judge granted permission to withdraw the revision application. However, a prayer was made before the Court that liberty be given to the Respondents herein to examine a private handwriting expert at their own costs as their witness. The

Learned Single Judge directed that the Trial Court shall consider such a request if made, on its own merits. Thereafter an application was moved before the Trial Court which was rejected on 19th July, 2002 on the ground that the application was not in consonance with the order of this Court. A fresh application was thereafter moved on which on 14th February, 2003 the Trial Judge while allowing the application permitted the Respondents - Original Plaintiffs to examine the handwriting expert referred to in their application as their own witness. That order has not been challenged by the Petitioners. On 27th August, 2001 the handwriting expert addressed a communication in which he stated that in order for him to carry out the task, it would be necessary for him to examine sample thumb impressions so as to enable him to carry out the work of comparison. In this view of the matter, an application was made before the Trial Judge which was allowed by the impugned order dated 7th October, 2004. The contention of the Petitioners that the application which is now allowed is exactly the same application which was rejected previously is erroneous. As already noted earlier, the application for examining a private handwriting

expert as a witness was allowed on 14th February, 2003 and the impugned order dated 7th October, 2004 is only in implementation of the earlier order. That apart, the Court is informed that the documents have already been remitted to the handwriting expert in pursuance of the impugned order. In these circumstances, the interference of the Court under Article 227 is not warranted at this stage. However, it is needless to add that the dismissal of this Petition should not be construed as any expression of opinion by this Court on the relevance or the admissibility of the evidence which is sought to be relied upon by the Original Plaintiffs. The Petition is rejected.